

ASSEMBLY BILL

No. 1659

Introduced by Assembly Member Butler

February 14, 2012

An act to amend Section 3509 of the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1659, as introduced, Butler. Public Employment Relations Board: powers and duties.

Existing law establishes the Public Employment Relations Board (PERB), which is charged with administering various collective bargaining provisions. Under existing law, PERB has the power and duty, among others, to order elections, conduct any election, adopt rules, investigate an unfair practice charge, and to determine whether the charge is justified and the appropriate remedy for the unfair practice.

Existing law also grants the employee relations commissions for the County of Los Angeles and the City of Los Angeles, notwithstanding the above provisions, the power and responsibility to take actions on recognition, unit determinations, elections, and all unfair practices, and to issue determinations and orders as the employee relations commissions deem necessary.

This bill would grant the employee relations commissions for the County of Los Angeles and the City of Los Angeles the power and authority to take the actions specified above only if those commissions and their respective staff are independent of county and city management, as described, and the commissions are not funded within the same budget item that funds any other public office, department, or agency within the county or city.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3509 of the Government Code is amended
2 to read:

3 3509. (a) The powers and duties of the board described in
4 Section 3541.3 shall also apply, as appropriate, to this chapter and
5 shall include the authority as set forth in subdivisions (b) and (c).
6 Included among the appropriate powers of the board are the power
7 to order elections, to conduct any election the board orders, and
8 to adopt rules to apply in areas where a public agency has no rule.

9 (b) A complaint alleging any violation of this chapter or of any
10 rules and regulations adopted by a public agency pursuant to
11 Section 3507 or 3507.5 shall be processed as an unfair practice
12 charge by the board. The initial determination as to whether the
13 charge of unfair practice is justified and, if so, the appropriate
14 remedy necessary to effectuate the purposes of this chapter, shall
15 be a matter within the exclusive jurisdiction of the board, except
16 that in an action to recover damages due to an unlawful strike, the
17 board shall have no authority to award strike-preparation expenses
18 as damages, and shall have no authority to award damages for
19 costs, expenses, or revenue losses incurred during, or as a
20 consequence of, an unlawful strike. The board shall apply and
21 interpret unfair labor practices consistent with existing judicial
22 interpretations of this chapter.

23 (c) The board shall enforce and apply rules adopted by a public
24 agency concerning unit determinations, representation, recognition,
25 and elections.

26 (d) Notwithstanding subdivisions (a) to (c), inclusive, the
27 employee relations commissions established by, and in effect for,
28 the County of Los Angeles and the City of Los Angeles pursuant
29 to Section 3507 shall have the power and responsibility to take
30 actions on recognition, unit determinations, elections, and all unfair
31 practices, and to issue determinations and orders as the employee
32 relations commissions deem necessary, consistent with and
33 pursuant to the policies of this chapter, *only if the commissions*
34 *and their respective staff are independent of county and city*
35 *management, and the commissions are not funded within the same*

1 *budget item that funds any other public office, department, or*
2 *agency within the county or city. Independence from city and*
3 *county management shall include, but not be limited to, all of the*
4 *following:*

5 *(1) The commission, and not the city or county management,*
6 *shall be the custodian of records of the commission.*

7 *(2) Once a budget is allocated to the commission, the*
8 *commission shall have the sole discretion on how to allocate its*
9 *funds.*

10 *(3) The commission, and not the city or county management,*
11 *shall have control over all employment issues related to its staff*
12 *and hearing officers.*

13 (e) Notwithstanding subdivisions (a) to (c), inclusive, consistent
14 with, and pursuant to, the provisions of Sections 3500 and 3505.4,
15 superior courts shall have exclusive jurisdiction over actions
16 involving interest arbitration, as governed by Title 9 (commencing
17 with Section 1280) of Part 3 of the Code of Civil Procedure, when
18 the action involves an employee organization that represents
19 firefighters, as defined in Section 3251.

20 (f) This section shall not apply to employees designated as
21 management employees under Section 3507.5.

22 (g) The board shall not find it an unfair practice for an employee
23 organization to violate a rule or regulation adopted by a public
24 agency if that rule or regulation is itself in violation of this chapter.
25 This subdivision shall not be construed to restrict or expand the
26 board's jurisdiction or authority as set forth in subdivisions (a) to
27 (c), inclusive.